

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

**BRENDAN BERGER,**

**Plaintiff,**

**v.**

**NATIONAL BOARD OF MEDICAL  
EXAMINERS,**

**Defendant.**

**Case No. 1:19cv00099**

**Judge: Hon. Susan J. Dlott**

**Magistrate Judge: Hon. Karen L.  
Litkovitz**

**DECLARATION OF ROBERT BURGOYNE**

1. I am over 18 years of age and have personal knowledge of the matters addressed in this Declaration.

2. I am a partner at Perkins Coie, LLP, which serves as co-counsel for the defendant in the instant matter, National Board of Medical Examiners (NBME).

3. I have attached as **Exhibit A** a true and correct copy of a letter that was provided to me on July 22, 2019, by counsel for Brendan Berger. The letter is dated December 14, 2018, it is addressed to Plaintiff's counsel (Charles Weiner), and it is over the signature of Leah Heinecke-Krumhus, Senior Counsel, Adtalem Global Education, which I understand to be the parent or an affiliate of the American University of the Caribbean School of Medicine ("AUC"). The letter has been added to Plaintiff's Rule 26(a)(1) Disclosures, as amended on July 22, 2019.

4. I have attached as **Exhibit B** true and correct copies of pages from the *AUC Course Catalog & Student Handbook 2019*, which I retrieved from the AUC website during the week of

July 22, 2019: [https://www.aucmed.edu/content/dam/dmi/www\\_aucmed\\_edu/PDFs/AUC-Student-Handbook.pdf](https://www.aucmed.edu/content/dam/dmi/www_aucmed_edu/PDFs/AUC-Student-Handbook.pdf).

5. I have attached as **Exhibit C** a true and correct copy of a document titled “The United States Medical Licensure Examination® (USMLE) Step 2 Clinical Knowledge (CK) Exam -- FAQs,” which I retrieved from the AUC website during the week of July 22, 2019: [https://www.aucmed.edu/content/dam/dmi/www\\_aucmed\\_edu/PDFs/Clinical-Connections/Step-2-CK-FAQs.pdf](https://www.aucmed.edu/content/dam/dmi/www_aucmed_edu/PDFs/Clinical-Connections/Step-2-CK-FAQs.pdf).

6. In connection with Mr. Berger’s recently filed motion for a preliminary injunction, NBME’s counsel served a third-party document subpoena on Dr. Cheryl Beach. Dr. Beach is a psychologist whose diagnoses are relied upon in this case by Mr. Berger.

7. One of the documents produced to NBME’s counsel by Dr. Beach was a form that requested reconsideration of a previously denied request by Mr. Berger for accommodations on the Medical College Admission Test (MCAT). A true and correct copy of this form as produced to us by Dr. Beach is attached hereto as **Exhibit D**, except that the Bates numbers and Confidential designation on the bottom of each page was added by our firm to assist in identifying the documents in this litigation.

8. One of the documents produced to NBME’s counsel by Dr. Beach was a letter dated May 11, 2010, from John Hosterman, Ph.D. (AAMC) to Mr. Berger, denying his request for reconsideration. A true and correct copy of this letter as produced to us by Dr. Beach is attached hereto as **Exhibit E**, except that the Bates numbers and Confidential designation on the bottom of each page were added by our firm to assist in identifying the documents in this litigation, and certain personal information regarding Mr. Berger has been redacted (e.g., DOB, email address, and assessment results).

9. I have attached as **Exhibit F** a true and correct copy of a “Global Assessment of Functioning (GAF) Scale” as found on page 32 of the Diagnostic and Statistical Manual of Mental Disorders (4th Ed. 1994) (published by the American Psychiatric Association), and of the cover page for that publication.

10. I have attached as **Exhibit G** a true and correct copy of a document titled “The “2020 Main Residency Match® Calendar,” which I retrieved during the week of July 22, 2019 from the following web address: <http://www.nrmp.org/wp-content/uploads/2018/04/2019-Main-Residency-Match-Calendar-1.pdf>.

11. I have attached as **Exhibit H** a true and correct copy of a document titled “Supplemental Offer and Acceptance Program® (SOAP®) Frequently Asked Questions for Medical School Staff,” which I retrieved on July 23, 2019 from the following web address: <http://www.nrmp.org/wp-content/uploads/2015/09/SOAP-FAQ-Schools.pdf>.

12. I declare under penalty of perjury that the foregoing statements are true and correct.

Executed on July 24, 2019

  
Robert A. Burgoyne

# EXHIBIT A



December 14, 2018

Via Email: [charles@charlesweinerlaw.com](mailto:charles@charlesweinerlaw.com)

Mr. Charles Weiner, Esq.  
Cambria Corporate Center  
501 Cambria Avenue  
Bensalem, PA 19020

Mr. Weiner,


This letter serves as a follow-up and to memorialize the conversation on December 12, 2018 in response to your request an additional extension of time on Mr. Brendan Berger's leave of absences so that he may continue to pursue his request for accommodation in the United States Medical Licensing Exam (USMLE) Step 2 Clinical Knowledge (CK).

As we discussed, American University of the Caribbean School of Medicine (AUC) is willing to consider Mr. Berger's request with the following terms to be formally acknowledged at a future date:

1. On or before January 28, 2019 (45 days from today's date), AUC receives formal written notice that on behalf of your client, Mr. Berger, you have filed a lawsuit against National Board of Medical Examiners (NBME) or an administrative review with the NBME. Failure to do so will result in immediate dismissal of Mr. Berger from AUC.
2. If the suit is successful and Mr. Berger is able to take USMLE Step 2 (CK) with accommodations, AUC will allow Mr. Berger to keep his current academic status at AUC for one additional attempted USMLE Step 2 CK.

It is my understanding that both you and Mr. Berger are traveling over the next few weeks and you need time to consult with your client. Please contact me after your consultation.

Sincerely,



Leah Heinecke-Krumhus  
Senior Counsel  
Adtalem Global Education

cc: Brendan Berger via email [brendanberger@gmail.com](mailto:brendanberger@gmail.com)

# EXHIBIT B



# COURSE CATALOG & STUDENT HANDBOOK 2019

EFFECTIVE: May 7, 2019



American University of the Caribbean  
School of Medicine

**AUC COURSE CATALOG AND STUDENT HANDBOOK | MAY 2019**

Approval of a Religious Accommodation Request will excuse a student's participation from classes and/or exams for observance of religious holidays. Students requesting a religious Accommodation for holidays and/or holy days not recognized should specify exactly what holidays/holy days they observe on the [Request for Religious Accommodation](#) and be prepared to demonstrate to the appropriate Dean for Student Affairs why they are prevented from fulfilling the regularly scheduled program of education on that day.

**Record Keeping**

Materials related to a student's Religious Accommodation Request, including the written request for accommodation and any other document or information, will be treated as confidential except as necessary to give effect to the accommodation granted.

**Time Period to Make-up Exams/Assignments**

Granting of a religious accommodation constitutes an excused participation. All students who are excused from participation must make up exams and assignments during the regularly scheduled make-up date/time determined by the Course Director. An inability to participate in classes or examinations for religious reasons does not relieve students from responsibility for any part of the course work required. Religious accommodation in the Clinical Sciences curriculum will have to be arranged in advance at those clinical sites. Clinical sites will make or deny such accommodations according to the site's own policies.

For Clinical Sciences students, the Clerkship Director may impose administrative disciplinary action if the student fails to satisfactorily complete any alternative assignment or make-up examination. Time limits with respect to taking the NBME exams should be noted carefully as these will continue to apply whether or not a religious accommodation has been granted.

**RELIGIOUS ACCOMMODATION ADMINISTRATIVE REVIEW PROCEDURES**

In those cases where a request for a religious accommodation is denied, the student may request an administrative review pursuant to AUC's [ARGP](#). When a request for religious accommodation was made by the student but denied, the administrative review process shall be expedited as much as reasonably possible to ensure that a student pursuing a religious accommodation is not unduly disadvantaged by the passage of time.

**ECFMG CERTIFICATION**

The ECFMG is the agency that registers foreign medical students for the purpose of taking the USMLE Steps 1–3. Passing USMLE Steps 1–3 is a requirement for licensure in the United States. To qualify to sit for the USMLE exams, students must be certified by AUC as “officially enrolled” (with exception of the USMLE Step 3).

On the ECFMG certification form, students must authorize ECFMG to provide examinee-specific



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USMLE performance data to AUC, including whether the examinee passed the exam and the examinee's numerical scores on the three-digit scale. AUC has an interest in receiving accurate and timely student performance data for several reasons including accreditation, state approvals and licensure and curriculum evaluation. Therefore, each student must authorize ECFMG to deliver his or her examination results to AUC as condition to AUC certifying the student as "officially enrolled."

Students, who meet ECFMG requirements, will be certified to take the USMLE Step 2 CK examination prior to satisfying the AUC USMLE Step 2 CK Policy. Certification will allow clinical students an appropriate length of time to select an examination date with the Prometric Test Centers. Students who fail to satisfy the AUC USMLE Step 2 CK Policy and take the examination will be considered to have violated the Student Code of Conduct and will be subject to an Administrative Review, which could ultimately result in disciplinary action or dismissal from AUC. Students have the right to appeal the decision.



## STUDENT ACADEMIC STATUS CLASSIFICATION

AUC recognizes the following academic status classifications:

GS = Good Standing  
 AP = Academic Probation  
 NP = Non-Academic Probation  
 AW = Academic Warning  
 SP = Suspended  
 AD = Academic Dismissal  
 RA = Readmitted after Appeal  
 AR = Academic Warning/Readmitted after Appeal  
 ND = Non-Academic Dismissal  
 SF = SAP/FA Probation  
 SR = SAP/FA Probation/Readmit after appeal  
 SD = SAP/FA Dismissal  
 MT = Exceeds Max Time Frame  
 AA= Academic Probation/Readmit after appeal  
 WNS= Withdrawn No Show

## UNDERSTANDING ACADEMIC PERFORMANCE STATUS

During the process of reviewing academic performance, any student that triggers an unsatisfactory academic performance status will be notified of their status and progress throughout the process via email. Please note that with the exception of Academic Warning, all of the following end of semester statuses are permanent and will be reflected on the student's official transcript.

**Academic Warning (AW)** = Student triggers academic warning criteria.

**Academic Probation/Readmit after appeal (AA)** = Student triggered academic dismissal criteria and has successfully appealed for reinstatement into AUC.\*

**Academic Dismissal (AD)** = Student triggers academic dismissal criteria; student fails to meet academic plan and/or terms of an appeal, student fails to remediate and/or appeal tentative Academic dismissal standing.

\*Student is placed on academic plan/given appeal terms in order to remain enrolled in AUC.

Academic performance is reviewed throughout the duration of the portion of the program.

## ACADEMIC STATUS CRITERIA

Failure to meet academic performance standards during or at the close of a semester will result in students triggering criteria for either Academic Warning (AW) or Academic Dismissal (AD). Students triggering criteria for AW and/or AD will have their status reported to the appropriate parties for notification and/or remediation purposes as needed. Upon triggering AW, students will have their performance monitored throughout the semester and at the close of the semester in which the warning was triggered. Should a student trigger an AD, he or she may appeal the dismissal. Upon a successful appeal the student will be placed on probationary status or AA, during which the student's performance will once again be monitored throughout the semester. If a student does not meet the terms of this probationary plan or appeal terms, he/she will be permanently dismissed from AUC without a right to appeal.

If, after reviewing a student's academic progression, AUC determines that a student cannot complete the relevant curriculum of the medical education program within the seven academic years, then he or she will no longer be eligible for FA and will be dismissed from AUC without right of appeal.

## SATISFACTORY ACADEMIC PROGRESS (SAP)

All AUC students must meet AUC's policies on Satisfactory Academic Progress (SAP), as set out below. SAP represents an acceptable level of performance in meeting degree requirements within specified time periods. It is used in both academic evaluation and in the determination of financial aid eligibility. SAP is outlined by Federal guidelines [\[34 CFR 668.34\]](#) which specify the minimum academic progress required of a student to avoid termination of funding provided by Federal and state governments. These guidelines also relate to programs funded by the Institution, as determined by AUC.

SAP indicates that a student has met academic requirements to an acceptable level within a specified time period. A student's SAP standing is important during academic evaluation and determination of eligibility for financial aid. Students who do not meet SAP requirements are subject to dismissal and/or loss of Title IV funding.

To evaluate students' academic progress, the medical education program is divided into increments of academic years. An academic year comprises two terms of 16 weeks. Therefore, the AUC Medical Sciences curriculum encompasses one and one-half academic years in a calendar year. At the end of each academic year completed during the medical science and clinical science course curriculums, each student's academic progress is evaluated. SAP evaluation will also occur on a semester basis if a student has failed to meet SAP in the previous academic year. This evaluation involves two metrics—one quantitative and one qualitative.



**The quantitative measure evaluates a student's pace of progression through the medical education program within the maximum time frame.** The pace of progression is calculated by dividing the cumulative course credits or clerkships weeks that the student has successfully completed by the cumulative course credits or clerkship weeks that the student has attempted. The pace of progression calculation will include credits for all courses attempted, except for those that have been dropped during the add/drop period. Courses with a grade "W" in which a student was enrolled prior to the granting of a Short-Term Leave for a period of greater than 15 days will count in the pace of progression metrics.

Transfer course credits accepted by AUC toward a student's completion of the Medical Sciences curriculum of the program will count as both credits attempted and credits completed when computing the pace of progression. The number of course credits accepted will be divided by 15 to determine the number of semesters of enrollment that the student will be deemed to have completed with reference to the maximum time frame. (For clarification: 1-15 credit hours will count as 1 semester of enrollment; 16-30 credit hours will count as 2 semesters of enrollment; 31-45 credit hours will count as 3 semesters of enrollment, etc.).

**The qualitative measure evaluates the student's GPA (medical) or the cumulative average of clerkship grades (clinical).** Course credits are not guaranteed to transfer to other schools. Acceptance of credits is subject to the receiving institution's requirements.

## DEMONSTRATION OF SAP

All students must comply with the following three components of SAP:

### **Cumulative Grade Point Average (Medical Sciences) or Cumulative Average of Clerkship Grades (Clinical Sciences)**

- Students must maintain a 70.0% cumulative grade point average throughout the duration of the Medical Sciences curriculum of the program.
- Students must maintain a cumulative "Passing" clerkship grade throughout the duration of the Clinical Sciences curriculum of the program.

### **Pace of Progression**

- Students must successfully complete at least 67% of all attempted credits accumulated throughout the medical sciences and clinical sciences curriculum.
- Successful attempt in Medical Sciences curriculum is considered passing with a grade of 70.00% or higher.
- Successful attempt in Clinical Sciences curriculum is considered passing with a "Pass" or higher.

**AUC COURSE CATALOG AND STUDENT HANDBOOK | MAY 2019****Maximum Time Frame**

The maximum time frame for completion of the entire medical education program is comprised of 15 semesters of enrollment.

**UNDERSTANDING SAP STATUSES**

SAP represents an acceptable level of performance in meeting degree requirements within specified time periods. It is used in both academic evaluation and in determination of Financial Aid (FA) eligibility. Students maintain SAP by meeting the requirements listed under the Promotions Policies. Please note that the following end of semester statuses are permanent and will be reflected on the student's official transcript.

**Good Standing**

- Student maintains good standing by displaying SAP, complying with all other academic rules and regulations, and by remaining current with financial obligations.

**SAP/FA Probation/Readmit after Appeal**

- Students not meeting SAP standards are subject to dismissal. A student may appeal this decision and be eligible for a reinstatement contingent to appeal approval.<sup>1</sup>

**SAP/FA Dismissal**

- Student fails to meet academic plan, terms of an appeal, remediate and/or appeal SAP dismissal standing, cannot meet SAP requirements due USMLE testing prohibition, or fails to meet SAP a second time after being placed back into good standing.

<sup>1</sup>Student is placed on an academic plan based on an approved appeal in order to remain enrolled in AUC. SAP calculations occur every academic year or according to the terms of the academic plan until successfully meeting the terms of the academic plan or SAP is regained. SAP evaluation will also occur on a semester basis if a student has failed to meet SAP in the previous academic year.

**SAP PROGRESSION**

Failure to meet SAP standards may result in loss of financial aid (FA) if applicable. If the result of the SAP evaluation indicates that a student has not met either one of the qualitative or quantitative measures, or is not meeting the terms of the academic plan the student will be notified in writing that s/he is no longer eligible for federal FA and is subject to dismissal from AUC. A student receiving such notification may grieve the determination and request reinstatement on SAP/FA probation based on the guidelines of the academic plan completed.



## ACADEMIC WARNING

Students will trigger an academic warning (AW) status based on the criteria below. Students triggering an AW status will have their status reported to the appropriate parties for notification and/or remediation purposes as needed. Upon triggering an AW, the student's performance will be monitored throughout the semester and reviewed in full at the end of the semester and remedial interventions may be mandated. AW status is not reported on student's transcript.

### *Medical Sciences*

- Students who have failed 10 or more credit hours in the Medical Sciences curriculum.
- Failure of USMLE Step 1 exam after first attempt.

### *Clinical Sciences*

- Failure of one core clinical clerkship or elective rotation.
- Failure of 2 NBME clinical subject exams in the same or different specialties.
- Failure of USMLE Step 2 CK or CS on the first attempt.

## ACADEMIC DISMISSAL

Students will trigger an academic dismissal status based on the criteria below. Students triggering an academic dismissal status will have their status reported on their transcript and to all appropriate parties for notification and/or appeal purposes as needed. Upon triggering academic dismissal, students may appeal their dismissal if applicable. Upon a successful appeal the student's performance will be monitored throughout the semester and reviewed in full at the end of the semester.

### *Medical Sciences*

- Failure of 17 or more credit hours in the Medical Sciences curriculum.
- Failing ICM 6, in accordance with the course syllabus.
- Failure to meet the terms of an appeal or academic plan.
- Students who fail the same course for the second time. This includes students who fail a course for the first time and upon subsequent enrollment in the next semester are unable to pass the repeated course for any reason, including but not limited to, an approved voluntary leave of absence.
- A third failure of the USMLE Step 1.
- Students who do not pass USMLE Step 1 exam after three consecutive leaves of absences.

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- Failure to report the USMLE Step 1 score by the first day of the subsequent semester without an approved extension.
- Failure to report the USMLE Step 1 score by the end of a granted extension period.
- Failure of USMLE Step 1 by the Step 1 deadline in the 2nd-term academic leave, if they missed Step 1 in the 1st-term academic leave.
- Students with a granted LOA who do not sit for USMLE Step 1 exam during the leave period.
- A student who has been dismissed and reinstated by the Appeal Committee during the Medical Sciences curriculum will be dismissed without the right to appeal should they fail any other course or the USMLE Step 1 examination on their first attempt. No student can appeal to the Appeal Committee more than once.
- If a student fails both the Comprehensive Exam I (Comp 1) and the Comprehensive Exam II (Comp 2) during the first time he/she takes the ICM 6 course, he/she will receive an (I) grade for the course, be placed on an LOA during the next semester, be required to take a review course, and then sit for the Comprehensive Exam a third time (Comp 3). If a student passes Comp 3, their ICM 6 grade will be updated to a (P). If he/she fails Comp 3, their ICM 6 grade will be changed to an (F) and the student will be dismissed from AUC with the right to appeal. If the student successfully appeals his/her dismissal, he/she must return to the Medical Sciences campus to register for and repeat ICM 6. Failure to pass the Comprehensive Exam within two attempts during this appeal term when they are taking ICM 6 for the second time will result in the permanent dismissal of the student without the right to appeal.

*Clinical Sciences*

- Failure of two or more core clinical clerkships or elective rotations;
- A fifth failure on an NBME Clinical Subject Examination in the same specialty;
- A sixth failure on the Clinical COMP.
- A sixth failure on the USMLE Step 2 Examination or any combination of its components (CK and CS). AUC students should be aware that multiple attempts on any USMLE examination may have long-term consequences with respect to eligibility for licensure in certain states as many state medical licensing authorities limit the number of attempts allowed to pass each USMLE Step or Step component.
- Any student who does not register and sit for the USMLE Step 2 or its component(s) during an approved leave of absence in which s/he has approval from AUC and the USMLE to sit for the examination(s).
- Any student who has completed all their course work but who are delayed by the USMLE for registering for the Step Exam for more than 6 months from their previous

exam date will be dismissed. These students must re-apply to AUC and be reinstated by AUC's Admissions Committee before registering and sitting for the exam(s).

- Failure to meet the terms of an appeal or academic plan.
- Any student who does not graduate within 7 calendar years of matriculating;

## APPEAL PROCESS

Students who do not meet SAP or trigger an AP or AD will be notified of their SAP and/or academic standing and what steps are needed in order to remediate and/or appeal (if applicable). Student notification will occur via official AUC email account and will have applicable documentation attached in order to process their remediation and/or appeal. The information below provides students with a synopsis of the remediation and appeal process.

- Students making an appeal must submit a request to the Associate Dean for Academic Affairs on why s/he failed to make SAP and what has changed that will allow him or her to demonstrate SAP at the next evaluation.
- If the student appeals an adverse SAP determination or is reinstated, the university ensures that the student should be able to make satisfactory academic progress during the subsequent term(s) of enrollment and meet the university's SAP standards at the end of the specified term. Then the university and the student jointly develop an academic plan for the student to follow and meet the university's SAP standards by a specific point in time. Eligibility to appeal the dismissal depends on the student's academic status and ability to complete the curriculum within the maximum time frame (see Maximum Time Frame section).
- A student whose appeal is approved and is reinstated on SAP/FA probation may receive federal FA for an additional term of enrollment or as stated on the academic plan. While a student is on SAP/FA probation, AUC will require the student to fulfill specific terms and conditions in accordance with the academic plan.
- At the end of the one term of enrollment while on AP or FA probation, in order to remain enrolled at AUC and qualify for future federal FA funds, the student must meet AUC's SAP standards OR must meet the requirements of the academic plan developed by AUC.
- A student on SAP/FA probation may still be dismissed if s/he fulfills the criteria for academic dismissal (see Academic Dismissal section).
- If, after reviewing a student's Pace of Progression, AUC determines that a student cannot complete the relevant curriculum of the medical education program within the Maximum Time Frame, then he or she will no longer be eligible for FA and will be dismissed from AUC without right of appeal.

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- Student will forfeit FA eligibility until SAP status is regained.
- If appeal is denied:
  - End of semester status is permanently placed in SAP/FA dismissal.
- A student who fails to appeal within the given timeframe will be permanently dismissed from AUC:
  - Student forfeits FA eligibility.

## COURSE GRADING SYSTEM

AUC's course grading system is based on an assessment of "Honors," "Pass," or "Fail." Examination grades and final grades for courses will be transmitted to individual students in a manner that ensures anonymity. A final grade is rounded to a whole number determined by a number in one decimal place. (e.g., 69.50% = 70% [P] and 69.49% = 69% [F]).

### H (Honors)

In a Medical Sciences course, an Honors grade is defined as a score greater than or equal to 89.50% (final grade 90% [H]).

For core clerkships, clinical students beginning their first rotation on January 9, 2017 or later who 1) receive an overall assessment of their clinical performance which "Exceeds Expectations," 2) meet or exceed all professionalism expectations, and 3) pass the relevant NBME subject examination on the first attempt will be awarded a final grade of Honors in that core clerkship.

For core clerkships, clinical students beginning their first rotation prior to January 9, 2017 who 1) receive an overall assessment of their clinical performance as "Superior" or "Above Average" and 2) pass the relevant NBME subject examination on the first attempt will be awarded a final grade of Honors in that core clerkship.

For elective rotations, clinical students beginning their first rotation on January 9, 2017 or later who 1) receive an overall assessment of their clinical performance as "Exceeds Expectations" and 2) meet or exceed all professionalism expectations will be awarded a final grade of Honors in that elective rotation.

For elective rotations, clinical students beginning their first rotation prior to January 9, 2017 who receive an overall assessment of their clinical performance as "Superior" or "Above Average" will be awarded a final grade of Honors in that elective rotation.

### P (Pass)

A passing grade is defined as a score of 69.50% - 89.49% in a Medical Sciences course.



For core clerkships, clinical students beginning their first rotation on January 9, 2017 or later who 1) receive an overall assessment of their clinical performance which "Meets Expectations" and 2) pass the relevant NBME examination will receive a final grade of Pass in that core clerkship.

For core clerkships, clinical students beginning their first rotation on January 9, 2017 or later who receive an overall assessment of their clinical performance as "Exceeds Expectations" but they do not initially meet all professionalism expectations and/or they fail the relevant NBME exam on the first attempt and then pass it on a subsequent attempt will receive a final grade of Pass in that core clerkship.

For core clerkships, clinical students beginning their first rotation prior to January 9, 2017 who receive an overall assessment of their clinical performance as "Average" or "Below Average" or if they receive an overall assessment of their clinical performance as "Superior" or "Above Average" but fail the relevant NBME exam and then pass it on a subsequent attempt will receive a final grade of Pass in that core clerkship.

All students must pass the relevant NBME examination to receive a passing grade in core clerkships.

For elective rotations, students beginning their first rotation on January 9, 2017 or later who receive an overall assessment of their clinical performance as "Meets Expectations" will receive a final grade of Pass in that elective rotation. For students beginning their first rotation prior to January 9, 2017 who receive an overall assessment of their clinical performance as "Average" or "Below Average" will receive a final grade of Pass in that elective rotation.

### **F (Fail)**

A failing grade is defined as a score less than or equal to 69.49% in a Medical Sciences course, or a failing performance in a clinical rotation. A student who is AWOL at the mid-term will receive an "F" grade in all courses for which s/he was enrolled at the time. Receipt of an "F" grade will require the student to repeat the course in the next term of enrollment (if s/he is not dismissed on academic grounds). This grade will remain on the student's official transcript. Students will not be allowed extra-credit work, make-up papers or credit for non-academic roles in order to raise a failing grade to a passing grade.

### **I (Incomplete)**

#### *Medical Sciences*

A course grade of Incomplete can only be assigned with an approved Excused Absence and as a result, the student has missed one or more exams in the course. However, a course grade of "F" will be assigned if a student needs a grade of more than 100 percent on any missed exam to pass the course. Make-up examinations for students will be decided between the student and



**W (Withdrawn)***Medical Sciences*

Any student who obtains an approved Leave from AUC prior to the end of the 12th week of classes shall receive a grade of "W" in all enrolled courses for the term, unless they have successfully completed the course prior to the approved leave. If they have successfully completed the course and taken the final examination, a final grade will be recorded. If the student did not successfully complete a course, the student must retake and complete those courses during the next term of enrollment. For the avoidance of doubt, no student may receive a "W" grade for any one course more than once, (unless the student was previously withdrawn for non-payment of tuition and fees). Failure to successfully pass the course by the end of the next term of enrollment will result in an "F."

**GRADE CHANGES***Medical Sciences*

If course directors find a calculation or record keeping error in the grade initially submitted, they will submit a Change of Grade Form to the Campus Registrar. Students cannot protest their grade. If students have academic concerns related to curriculum or assessment, they should refer to the [Flow Chart for Academic Concerns](#).

*Clinical Sciences*

Clinical Sciences grades are typically final unless there is an error in how the grade was calculated. A student who wishes to contest a final core clerkship or elective rotation grade, including comments, should first work directly with the relevant course director to discuss his or her concerns. If the course director is unwilling to accept the student's appeal, the student has the option of escalating his or her concern about the grade to the relevant US or UK Associate Academic Dean depending on the location. The Associate Academic Dean may then discuss the situation with the course director and/or site director. If no satisfactory resolution is achieved, the Associate Academic Dean can bring the matter to the Clinical Sciences Leadership Committee for additional input. The determination of the Clinical Sciences Leadership Committee is not subject to appeal.

**ACADEMIC COMMITTEES**

The **Appeal Committee** is comprised of faculty members with voting right. The Assistant Dean for Student Affairs and Associate Dean for Academic Affairs serve in an advisory capacity. This committee is charged with hearing and delivering dispositions on appeals from students that have received Academic Dismissals, failed to meet the terms of an academic plan.

**The Clinical Science Leadership Committee (CSL)** is comprised of six people: the Senior Associate Dean for Academic and Student Affairs; the Associate Dean for Student Affairs, who also serves as University Conduct Officer; the Associate Clinical Dean for the US; the Associate Clinical Dean for the UK; the Assistant Clinical Dean for the UK; and the Assistant Dean for Clinical and Student Affairs. During the clinical science training, the overall progress of the student is heavily dependent on his or her capacity to function in an interactive clinical setting with patients, faculty and administration in addition to maintaining adequate participation and academic progression. For this reason, the CSL was established to proactively consider and monitor the academic performance and progress of all clinical students. Due to the widely varying schedules of clinical students, the CSL meets twice a month to consider the progression of students who are falling below normal criteria with respect to clinical and academic performance as well as professionalism.

Ad hoc meetings of the CSL are initiated by the Associate Dean for Student Affairs who monitors performance and receives reports of poor performance or inappropriate behavior. The Clinical Deans will relay reports that they receive of poor performance or inappropriate behavior to the Associate Dean for Student Affairs who will then schedule meetings as required.

For current member names of the committees and/or deans listed above, please email the Office of the Registrar at [aucregistrar@aucmed.edu](mailto:aucregistrar@aucmed.edu).

## REQUIREMENTS FOR GRADUATION

To be eligible to receive the MD degree, students must have complied with all of the following aspects of the doctor of medicine degree program:

- Satisfactory completion of the medical science curriculum;
- Satisfactory completion of all required 72 weeks of clinical rotations:
  - Completion of each rotation includes all of the following:
    - Submission of Clinical Student Assessment Forms;
    - Submission of case logs; and
    - Submission of Clinical Clerkship Evaluation Forms;
- Passed all Comprehensive and NBME Subject exams;
- Passed and self reported scores for the USMLE Step 1, Step 2 CK and Step 2 CS exams;
- Fulfilled all financial obligations to AUC;
- Completed and submitted all required forms for graduation as requested by the Office of the Registrar; and
- Fulfilled all attributes of professionalism such as integrity, altruism, and working for

the public good.

To be eligible to participate in the graduation commencement ceremony which takes place in May of each year, students must successfully complete the aforementioned requirements of the doctor of medicine degree program. Students that do not fulfill all requirements, with the exception of pending student assessments by faculty, will not be allowed to participate in the commencement ceremony without seeking conditional approval from the Associate Dean for Student Affairs. Students requesting conditional approval based on not meeting requirements (i.e. final rotation ends after commencement ceremony) must submit their request to the Office of the Registrar. The Office of the Registrar will then send the request along with any other pertinent information to the Associate Dean for Student Affairs for review. Students who are granted approval will be provided with conditional terms of approval that must be met per the specified date. Students who cannot report a passing score by the date of the commencement ceremony will not be awarded conditional approval. Failure to meet the terms of a conditional approval will result in the student being removed from the ceremony RSVP and all ceremony bulletins. Students will also not be refunded for any expenses incurred should they not meet the conditional terms of approval.

during the next term of enrollment as set out in the Academic Performance section. The maximum consecutive time period for medical science students taking Academic Leave is two semesters.

Medical Sciences students are required to submit an ALOA request on the correct form to the office of the Dean of the Medical Science. All requests for Leave must be in writing and contain the student's printed name, student number, reason for the request, dates of the proposed leave period and student's signature.

A medical science student must meet the following Special Conditions before an Academic Leave request will be granted on medical grounds:

- A request for a medical leave must be delivered to the Associate Dean for Student Affairs prior to any missed exams, unless the medical illness or condition was of a truly exigent nature and caused the student to miss an exam;
- The request and supporting documentation will be reviewed by the Associate Dean for Student Affairs, and if deemed necessary, a physician of AUC's choice;
- The request must be accompanied by the student's signed consent for release of medical records which the student contends establish the existence of the qualifying medical condition; and

Students will not be allowed to take any exam or attend classes during an approved academic leave of absence for medical reasons.

### *Clinical Sciences*

Clinical students receive federal financial aid based on confirmation of scheduled rotations. If there is a break in the student's scheduled rotations, the clinical student must complete an Academic Leave Request Form in advance, so that his or her current enrollment status may be tracked and reported to federal financial aid authorities. Therefore, it is essential for all clinical students to request and obtain approval for an Academic Leave prior to any break in their rotation schedule. Any Academic Leaves undertaken during clinical years should preferably be Short-Term. Students will be granted a maximum of two Long-Term ALOAs to take and pass all of their NBME Subject Examinations as required unless special dispensation has been granted by the Council of Clinical Deans.

## **LEAVE OF ABSENCE POLICY FOR USMLE TESTING**

Students who have been approved for an Academic Leave of Absence for the purpose of preparing and sitting for a USMLE exam must ensure that their scores are received by the end of their approved ALOA. Failure to submit a score by the end of an approved ALOA will automatically trigger an academic dismissal. Please review the academic performance section



for additional information on dismissal criteria.

### **USMLE Step 1 ALOA**

Every medical sciences student needs to take a Long-Term Academic Leave of Absence to study and sit for the USMLE Step 1 Examination. To be approved for this LOA, students who have completed the Medical Sciences curriculum of the educational program must submit a completed [Academic Leave Request Form](#) and the required supporting documentation (see below) to the Office of the Registrar on the Medical Sciences campus.

Requests for a 2<sup>nd</sup> Step 1 LOA will only be considered in cases of documented serious medical and/or family emergency. These situations are considered on a case-by-case basis and approval is not guaranteed. Step 1 LOA students experiencing such an emergency should contact the Associate Dean for Student Affairs as soon as possible to discuss their situation. If approved, students must sit for USMLE Step 1 on their 3<sup>rd</sup> term Academic Leave. Failure to report the USMLE Step 1 score by the first day of the subsequent semester after the approved Academic Leave will result in dismissal with the right to appeal.

Those students who do not pass the USMLE Step 1 on their first attempt will receive a letter of warning and will be referred to the Associate Dean of Academic Affairs. Those students and the Dean will work jointly to develop an academic plan for the USMLE Step 1 examination for a second time, and the student must take a second academic leave for an additional semester. If a student fails the USMLE Step 1 for a second time, they will be academically dismissed with the right to appeal to the Appeal Committee. Should they be reinstated, a third academic leave may be required. Under no circumstances can a student take more than three academic leaves.

A student who intends to request a Long-Term Academic Leave for a second term to study or to sit for the USMLE Step 1 must also submit the following documentation with the [Academic Leave Request Form](#):

- A copy of the USMLE receipt as proof of attendance and completion of each USMLE Step 1 exam taken during the prior Academic Leave period;
- A copy of the USMLE result sheet, front and back, for each USMLE Step 1 exam taken during the prior Academic Leave period; and
- A detailed action plan with timeline setting out the student's strategy for passing USMLE Step 1.

Students who have been approved for a USMLE Step 1 ALOA extension for medical reasons as selected on the leave form, are still eligible to sit for the USMLE Step 1 examination. Please note this is only for students with an approved Step 1 extension.



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A student who intends to request a Long-Term Academic Leave for the **third term** to study or sit for the USMLE Step 1 must also submit the following documentation with the Academic Leave Request Form:

- A copy of the USMLE receipt as proof of attendance and completion of each USMLE Step 1 exam taken during all prior Academic Leave periods;
- A copy of the USMLE result sheet, front and back, for each USMLE Step 1 exam taken during all prior Academic Leave periods; and
- Any other records confirming compliance with the prior Academic Leave action plan.

The student's agreement to comply with an approved action plan will become a condition of the Academic Leave, if approved. Failure to comply with any condition may result in denial of a further leave request and, if the student has not taken the USMLE Step 1 exam as agreed or otherwise not complied; the student will be subject to dismissal. The procedure for appealing such a dismissal is set out in the Academic Performance section.

**Academic, Medical and Personal leaves all count towards Long-Term Academic Leaves. Students contemplating an Academic Leave on personal or medical grounds should note the Criteria for Dismissal located in the Academic Performance section.**

#### USMLE Step 2 ALOA(s)

Students who are requesting to take a leave to study and sit for a USMLE Step 2 examination must submit a completed [Academic Leave Request Form](#) and required supporting documentation (see below) to the Office of the Registrar. Students should anticipate that two weeks may be necessary to process an Academic Leave Request and should therefore allow sufficient time for approval to be granted to avoid becoming AWOL. The approval or denial of the student's Academic Leave Request will be confirmed by email from the Office of the Registrar.

A student who intends to submit a first-time request for a Long-Term Academic Leave to study or sit for a USMLE Step 2 examination must also submit the following documentation with the Academic Leave Request Form:

- An email recording his or her agreement to take USMLE Step 2 at least one month before his/her leave expires; and
- A copy of his/her Prometric final test date confirmation for taking USMLE Step 2 within the proposed leave period.

Agreement to take a USMLE Step 2 examination on or before the date specified will become a condition of the student's Long-Term Academic Leave, if approved. Failure to comply with this condition will result in denial of any further leave request and the student will be subject to academic dismissal. The procedure for appeal of such a dismissal is set out in the Academic

Performance section. It is required that if the student receives a failing USMLE Step 2 score, s/he contact the Assistant Dean for Academic and Student Affairs to discuss a study plan and the timing for retaking the examination.

A student who intends to request a Long-Term Academic Leave for a **second term** to sit for a USMLE Step 2 examination must also submit the following documentation with the Academic Leave Request Form at least one month prior to expiration of the current Academic Leave period:

- A copy of the USMLE receipt as proof of attendance and completion of each USMLE Step 2 exam taken during the prior Academic Leave period;
- A copy of the USMLE result sheet, front and back, for each USMLE Step 2 exam taken during the prior Academic Leave period;
- A copy of the Prometric final test date confirmation for taking USMLE Step 2 before the end of the leave period;
- A detailed action plan developed in coordination with the Assistant Dean for Academic and Student Affairs with timeline setting out the student's strategy for passing USMLE Step 2 examinations; and
- An official ECFMG transcript must be provided to the Office of the Registrar prior to expiration of the second leave period, **if approved**.

Compliance with the approved action plan will be a condition of the Academic Leave, if granted. Failure to comply with any condition may result in denial of a further leave request. If the student has not taken the USMLE Step 2 exam or otherwise does not comply as agreed, the student will be subject to dismissal with the right to appeal. The procedure for appeal of such a dismissal is set out in the Academic Performance section. It is highly recommended that if the student receives a failing USMLE Step 2 score for the second time, he/she immediately enroll in a formal USMLE Step 2 preparation program.

A student who intends to request a Long-Term Academic Leave for the **third term** to study or sit for a USMLE Step 2 examination must also submit the following documentation with the Academic Leave Request Form at least one month prior to expiration of the current leave period:

- A copy of the USMLE receipt as proof of attendance and completion of each USMLE Step 2 exam taken during all prior Academic Leave periods;
- A copy of the USMLE result sheet, front and back, for each USMLE Step 2 exam taken during all prior Academic Leave periods;
- A copy of the receipt for payment for a USMLE Step 2 prep program confirming current or scheduled enrollment during the proposed leave period;

## AUC COURSE CATALOG AND STUDENT HANDBOOK | MAY 2019

- A copy of the Prometric final test date confirmation for USMLE Step 2 within the proposed leave period;
- Any other records confirming compliance with the prior Academic Leave action plan;

A further detailed action plan with timeline setting out the student's strategy for passing the USMLE Step 2 during the third requested leave period; and

An official ECFMG transcript must be provided to the Office of the Registrar prior to expiration of the third leave period, **if approved**.

The student's agreement to comply with an approved action plan will become a condition of the Academic Leave, if approved. Failure to comply with any condition may result in denial of a further leave request and, if the student has not taken the USMLE Step 2 exam as agreed or otherwise not complied; the student will be subject to dismissal. The procedure for appealing such a dismissal is set out in the Academic Performance section.

If a student needs more than one Long-Term Academic Leave of Absence, he or she must obtain approval from the Office of the Registrar. The maximum number of Long-Term ALOAs is limited to three for taking the USMLE Step 2 Exams. If a student has not reported a passing USMLE Step 2 score(s) by the end of the third semester of a Long-Term ALOA, he or she will be dismissed per the academic dismissal policy. Academic, Medical and Personal leaves all count towards the long-term academic leaves. Students contemplating an ALOA on personal or medical grounds should note the Criteria for Dismissal located in the Academic Performance section.

### Emergency

The Emergency Leave status will be converted to a Non-Academic Leave, a Non-Academic Medical Leave, or an Academic Medical Leave by the Associate Dean for Student Affairs as soon as the appropriate classification is determined. The student, unless incapacitated, will be required to request and complete the administrative details of the assigned leave within 30 days. Students, whose status cannot be determined because they have not responded within a month to electronic communications sent to their AUC email, will be declared AWOL and further proceedings will be handled according to AWOL provisions.

# EXHIBIT C



American University of the Caribbean  
School of Medicine

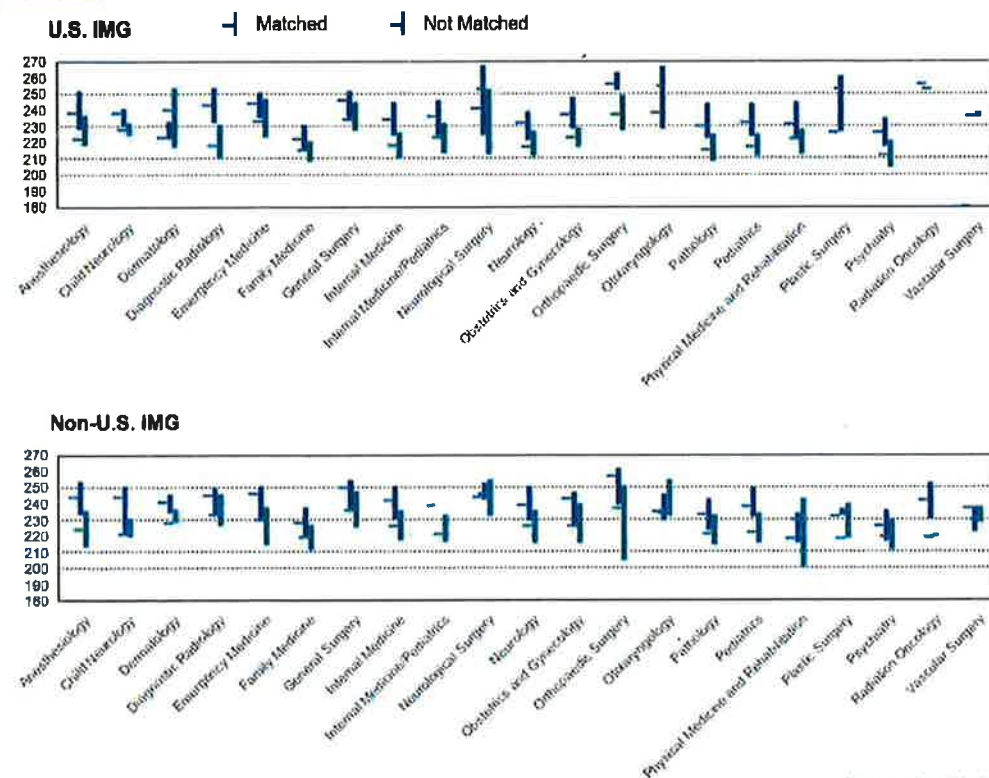
## **The United States Medical Licensure Examination® (USMLE) Step 2 Clinical Knowledge (CK) Exam – FAQs**

### **General Information:**

1. ***What is Step 2 CK?*** USMLE Step 2 CK is similar to USMLE Step 1 in that you are expected to demonstrate knowledge that you have previously been tested on with the National Board of Medical Examiners® (NBME) shelf exams during your core clinical clerkships and that the exam is computer-based in the format of multiple choice questions. For latest updates please refer to the [USMLE website](http://www.usmle.org).
2. ***What is the minimum passing score on Step 2 CK?*** For any student taking the CK exam on or after July 1, 2014, the minimum passing score is 209. (<http://www.usmle.org/transcripts/>). However, a student with a 209 on Step 2 CK may not be a competitive applicant for any residency. If you scored low on Step 1, you should aim for a higher score on Step 2 CK to be competitive in The MATCH®. For more information on average scores for AUC students by specialty, please refer to the [Office of Student and Professional Development \(OSPD\)](#).
3. ***What is the mean score and standard deviation?*** In the past two years, the mean and standard deviation for Step 2 CK first-time examinees from the US and Canadian medical schools were approximately 242 and 17, respectively. ([http://www.usmle.org/pdfs/transcripts/USMLE\\_Step\\_Examination\\_Score\\_Interpretation\\_Guidelines.pdf](http://www.usmle.org/pdfs/transcripts/USMLE_Step_Examination_Score_Interpretation_Guidelines.pdf))
4. ***How important is Step 2 CK?*** A passing score on Step 2 CK is required for all medical students prior to beginning residency training and is a graduation requirement of AUC. CK tests clinical knowledge, such as internal medicine, surgery, OB/GYN, pediatrics, and psychiatry. More information about Step 2 CK content is available on the [USMLE website](#). A strong Step 2 CK score demonstrates your ability to apply clinical knowledge, which can be an essential component to your residency application regardless of specialty. **Failing Step 2 CK or CS can decrease your chances of matching.** Some residency programs may filter out applicants by Step scores, so it is important to perform as best you can.
5. ***Who will see my Step 2 CK score and how does it affect my residency application?*** It is highly recommended for you to take the Step 2 CK exam *before* you submit your



**Chart 7 USMLE Step 2 CK Scores of International Medical Graduates by Preferred Specialty, Match Status, and IMG Applicant Type**



USMLE Step 2 CK scores are a measure of an applicant's ability to apply the medical knowledge, skills, and understanding of clinical science essential for providing patient care. Overall, matched U.S. IMGs had *mean* USMLE Step 2 CK scores of 232.6 (s.d. = 15.0) and matched non-U.S. IMGs had *mean* USMLE Step 2 CK scores of 238.8 (s.d. = 15.6), both well above the 2016 minimum passing score of 209. Step 2 CK scores were available for 85 percent of U.S. IMGs and 91 percent of non-U.S. IMGs who gave consent to research.

This chart along with the National Resident Matching Program®'s (NRMP) 2016 Charting Outcomes in the Match for International Medical Graduates (IMGs) may be found at:

<http://www.nrmp.org/wp-content/uploads/2016/09/Charting-Outcomes-IMGs-2016.pdf>.

You can also refer to [OSPD](#) for average scores of AUC students matching into specialties.

#### Preparation:

1. **How important are NBME Shelf Exams and the NBME Comprehensive Clinical Science Exam?** NBME Shelf exams should be treated as high stakes exams that test your medical knowledge in core clinical specialties. Higher performance in shelf exams translates into higher performance on the NBME Comprehensive Clinical Science Exam and Step 2 CK. The NBME Comprehensive Clinical Science Exam can be a predictor for readiness to take Step 2 CK and must be passed before AUC students are cleared to take Step 2 CK. A passing score of a 74 on the NBME Comprehensive Clinical Science Exam correlates with a passing score of a 210 on Step 2 CK.

2. ***How do I schedule the NBME Comprehensive Clinical Science Exam?*** Students must contact the Office of the Registrar to schedule “testing windows” for the NBME Comprehensive Clinical Science Exam. The Office of the Registrar typically needs 4 weeks of lead-time to get a student into a testing window. Testing windows are seven days in length ranging from Monday to Sunday. The timeframe to receive scores from the NBME Comprehensive Clinical Science Exam will be Tuesday of the following week (except during observed holidays when scores may be slightly delayed).
  
3. ***How can I study for the Step 2 CK and what resources should I use?*** Preparing for the Step 2 CK starts on day 1 of clinical rotations. AUC students should be preparing for Step 2 CK every single day during clinical sciences. You can accomplish that by utilizing clinical resources and treating NBME Shelf Exams as high stakes exam. It is recommended AUC students study for at least **one full month or more** to prepare for the Step 2 CK exam. Resources include, but are not limited to:
  - **People:** If you are working with a Clinical Education Fellow in the TCM Program, they can be a source of knowledge and tips for preparing for both Step 2 CK and CS.
  - **Review Books:** A comprehensive review book such as Conrad Fisher’s *Master the Boards* or *Step Up to Step 2* may be useful and give more in-depth information. We also suggest *Step Up to Medicine* for a thorough review of internal medicine and its subspecialties.
  - **Flash Cards:** Pharm Cards may be helpful in preparing for questions such as “what drug may have caused what side effect” or “what drug for what organism” on Step 2 CK.
  - **Study guides and resources** a student may have used in preparation for NBME Subject Examinations and the NBME Comprehensive Clinical Science Exam.
  - **NBME Self-Assessments** may be useful in gauging your readiness to sit for the Step 2 CK. An NBME Self-Assessment score of 340 or higher is correlated with a passing score on Step 2 CK.
  - **Review Courses:** AUC students with one or more failures of the NBME Comprehensive Clinical Science Exam prior to passage, or passing scores between 74 and 78, may want to consider enrolling in a live review course or an online live review course. These types of courses are offered by Becker Professional Education (Becker), Kaplan, and USMLEagle. Special pricing for Becker courses are available to AUC students on <http://becker.com/aucmed>.
  - **Question Banks:** The UWorld Qbank for Step 2 CK and the Kaplan Qbank are some question banks available for purchase. UWorld Qbank subscriptions are available at a special savings on <http://becker.com/aucmed> once you have signed in with your AUC email address.
  
4. ***Other than studying, how else can I prepare for Step 2 CK?*** Our recommendation is to reduce stress and take care of yourself! In all of the planning you are going to do for Step 2 CK, ensure you build in study breaks. These need to include both 1) physical breaks (sports, jogging, walking), which should be done OUTSIDE if at all possible and 2) mental breaks (time with friends, movies, TV, non-medical reading). A regimented sleep schedule is also extremely important. Sleep is the time our brain uses to assimilate and

organize the material from the day. Studying late into the night will deprive you of the benefit sleep provides.

#### Registering for Step 2 CK:

1. ***How do I schedule Step 2 CK?*** Visit the [ECFMG Website](#) to apply. When applying for Step 2 CK, you must select a three-month period, such as August-September-October, during which you would like to take the exam. This three-month period is referred to as your “eligibility period.” You must take the exam during the eligibility period assigned to you. You can take the exam on any day that it is offered during your assigned eligibility period, provided there is space available at the test center that you choose.
2. ***How much does Step 2 CK cost?*** \$865.
3. ***How long will it take to receive my CK score?*** Scores are generally available in 3-4 weeks; however, delays are possible. Historically, there is a score reporting delay every summer for students who take the exam after late July. For those who sit for the exam after late July, it may take up to 8 weeks to receive a score. Students are recommended to sign up for the Educational Commission for Foreign Medical Graduates® ([ECFMG Reporter](#)) and monitor the ECFMG website in order to stay up-to-date on important information related to IMGs such as possible reporting delays.
4. ***When should I take Step 2 CK?*** The decision about when to take Step 2 CK is one that should be informed by a number of factors including your Step 1 score, the individual requirements of the programs to which you are applying, the number of weeks you will require to adequately prepare, and your schedule of clinical rotations. According to the AUC USMLE Step 2 CK Policy which can be found in the [Student Handbook](#), **students must complete all five core clerkships and attain a score result of at least 74 on the NBME Comprehensive Clinical Science Exam prior to taking the Step 2 CK.** Students may request to take the NBME Comprehensive Clinical Science Exam before all core clerkships are completed if the student will not complete all core clerkships by **July 10th** of the year prior to the expected graduation date. Students should refer to the Student Handbook for specifics requirements for taking the NBME Comprehensive Clinical Science Exam early.

Students need to take USMLE Step 2 CK by December 31, 2018 to help ensure that results will be available in time to participate in the 2019 Main Match. While it is important to note that for IMGs, you may improve your chances of getting residency program interviews if your CK score is submitted with your ERAS application in mid-September if at all possible, rushing ahead with the CK when you are not prepared in order to meet this deadline could backfire if you receive a failing score. Always err on the side of caution if you are not certain of your preparation.

If you are unsure about when you should take CK, schedule a meeting with the Associate Dean of Student Affairs before proceeding. The ideal time to speak to a dean is before you schedule the NBME Comprehensive Clinical Science Exam.

5. ***EXAMPLE: I won't complete all five core clerkships until September 11, 2018, and I am not eligible to take the NBME Comprehensive Clinical Science Exam early. How can I ensure I receive my score back as soon as possible?***
- a. Determine when you are eligible to take the NBME Comprehensive Clinical Science Exam. In this case, the earliest you could schedule the testing window would be the following week, Sept. 17-23.
  - b. Determine the last day in which you could receive your score, which would be Tuesday of the following week or, in this case, Sept. 25.
  - c. Schedule the USMLE Step 2 CK eligibility period so that there's additional time in case you do not pass the NBME Comprehensive Clinical Science Exam the first attempt. Should you fail the NBME Comprehensive Clinical Science Exam, you would need to reschedule the USMLE Step 2 CK. In this case, an eligibility period of September-October-November would allow you enough time to confirm a passing score on the NBME Comprehensive Clinical Science Exam order to take USMLE Step 2 CK any time after Sept. 22.



# EXHIBIT D

MCAT

Office of Accommodated Testing Services

## Request for Reconsideration Form

(Please Note: Directions are provided on page 4)

Please type or clearly print responses to the following:

1. Name: Brendan Berger
2. AAMC ID # (if available): 12955464  
n
3. Address: \_\_\_\_\_
4. City, State, Zip: \_\_\_\_\_
5. Telephone Number: (513) 1
6. E-mail address: \_\_\_\_\_
7. Nature of your impairment (check all that apply):
  - ☒ Learning Disability
  - ☐ ADHD
  - ☐ Psychiatric Disorder (e.g., Anxiety Disorder, Depression, OCD)
  - ☐ Physical Disability (e.g., visual impairment, hearing impairment, mobility impairment, chronic medical conditions)
  - ☐ Other: \_\_\_\_\_

8. If your request for accommodations was not approved because of insufficient or incomplete documentation, such as missing components from a psychoeducational/neuropsychological assessment, you were informed about these missing components in your letter from us. Please explain where these missing components can be found (or attach new or updated evidence):

Please consult the Addendum  
Report with the missing components  
provided.

MCAT

Office of Accommodated Testing Services

9. Date of your most recent comprehensive psychoeducational/neuropsychological evaluation:

10/29/08

10. Regarding your evaluator:

Name: Alexander H. Smith, Ed.D.Doctoral degree in which field: clinical & school psychologyDoctoral degree earned in what year: 1975Describe your evaluator's experience in evaluating adults: Dr Smith

evaluates children and adults for ADHD, Learning Disabilities  
and emotionally-based learning disorders. He has also worked on  
PM & R (physical medicine) units in the past & is evaluating Adults in  
 Please ask your evaluator to help you complete items 11-14: cognitive deficits

11. For requests related to Learning Disabilities, ADHD, and psychiatric disorders:

List the names and results of the tests used to satisfy the Exclusionary Criteria (described in the Documentation Requirements), such as measures of social, emotional, and behavioral functioning:

Please see the original 10/08 report.

Test: \_\_\_\_\_ Result: \_\_\_\_\_

Test: \_\_\_\_\_ Result: \_\_\_\_\_

Test: \_\_\_\_\_ Result: \_\_\_\_\_

Test: \_\_\_\_\_ Result: \_\_\_\_\_

12. For requests related to Learning Disabilities and/or ADHD:

for entire WJ IIIPlease see addendum

List the test names and Standard Scores (mean=100) of the untimed achievement tests (reading, written language, math) that were administered:

Test: Woodcock-Johnson III Score: \_\_\_\_\_Passage Comprehension  
Reading ComprehensionTest: W-J III Math Concepts Score: \_\_\_\_\_

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Test: W-J III Writing Samples Score: \_\_\_\_\_ Test: \_\_\_\_\_ Score: \_\_\_\_\_Test: Nelson-Denny Score: \_\_\_\_\_ Test: \_\_\_\_\_ Score: \_\_\_\_\_

Remember that tests should be scored using age-norms unless unavailable from the test manufacturer.

13. For requests related to Learning Disabilities and/or ADHD:

List the test names and Standard Scores (mean=100) of the timed achievement tests (reading, written language, math) that are below the Average range (below 90):

Test: Nelson-Denny <sup>Extended Form 6</sup> Score: \_\_\_\_\_ Test: W-J III Reading Fluency Score: \_\_\_\_\_  
 Test: Vocab 40 %ile 6/12 <sup>Standard 9</sup> Score: \_\_\_\_\_ Test: W-J III Math Fluency Score: \_\_\_\_\_  
 Test: Comp. 29 %ile 6/12 <sup>Standard 4</sup> Score: \_\_\_\_\_ Test: W-J III Writing Fluency Score: \_\_\_\_\_  
 Test: Total 47 %ile 6/12 <sup>Standard 4</sup> Score: \_\_\_\_\_

Standard scores are not tabbed  
 Remember that tests should be scored using age-norms unless unavailable from the manufacturer.

14. For requests related to Learning Disabilities:

List the test names and Standard Scores (mean=100) of the tests of processing abilities that were administered, that are clearly related to the areas of significant underachievement (WAIS-3 subtests may NOT be the only tests of processing abilities):

Test: Stroop Neuropsych Score: \_\_\_\_\_ Related to area of underachievement: ✓  
Screening Test <sup>Color Task</sup> INDICATES slowed process task becomes more complex  
 Test: Trail-Making Test Score: \_\_\_\_\_ Related to area of underachievement: ✓  
Using norms for Age group <sup>TMT-A</sup> Z Scores for both subtests = -  
 Test: PASAT - Paced Auditory Serial Addition Test Score: \_\_\_\_\_ <sup>Verbal</sup> ✓

Remember that tests should be scored using age-norms unless unavailable from the test manufacturer.

Decreased capacity and rate of info processing in sustained  
 Name of examinee: Brendan Berger divided attention

Signed: [Signature]

Date: 4/3/10





Office of Accommodated Testing Services

## Checklist for Evaluators

**EXAMINEES:** Please ask your evaluator to complete this checklist; return it together with the completed Request for Reconsideration form.

**EVALUATORS:** Please carefully read the Documentation Requirements, posted on the website ([www.aamc.org/students/mcat/disabilities.htm](http://www.aamc.org/students/mcat/disabilities.htm)) for a comprehensive explanation of the guidelines for documentation. Please complete this checklist, sign and date it, and return it to the examinee.

This checklist is designed to be a supplement to the Documentation Requirements. This checklist does not represent an exhaustive list of requirements, but represents many of the most common areas that are overlooked or omitted by evaluators. *Inadequate documentation is one of the primary reasons why accommodations requests are not approved.* Attention to the following issues will support the examinee's request for accommodations.

### Checklist for Evaluators of all disabilities:

- ☒ I have read the Documentation Requirements, posted on the website.
- ☒ The report (or an addendum) includes information about the evaluator's qualifications and experience in assessing adults.
- ☒ The first page of the report of testing is printed on the evaluator's letterhead; the last page is hand-signed
- ☒ The report includes extensive discussion of the person's educational history, relevant medical history, and relevant family history.
- ☒ The report includes a history of the disorder, the history of the impact of the disorder, and the current impact of the disorder.
- ☒ The report includes discussion of prior accommodations (or lack thereof) on standardized testing, such as the SAT or ACT.
- ☒ The clinician's expert observations of the examinee's behavior during testing were described in the report.
- ☒ The diagnostic report includes results of objective testing; these may be supplemented by subjective reports such as self-report measures.
- ☒ Objective tests were scored using age-based norms.
- ☒ Tests administered were the most current edition.
- ☒ Tests administered were designed and normed for use with adults.

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☒ The evaluation was a *comprehensive* assessment; a screening for the presenting concern, by itself, is not sufficient.

☒ The report includes all scores and subtest scores for each test administered (age-based Standard Scores and percentiles).

☒ The test battery should include multiple measures in each area of functioning.

☐ Inconsistencies in the test results are explained in the report.

☐ The diagnostic report includes an individualized analysis of the test data and a meaningful interpretation of test-patterns. Computer-generated reports are not acceptable.

☒ The report includes an integration of the psychometric data with historical information and previous testing (if any) to corroborate the current need for accommodations.

☒ If a person is newly diagnosed with a disability, especially a disorder that is usually first manifest in childhood, the report includes discussion of the reason for the recent diagnosis.

☒ Other possible explanations for the individual's clinical presentation were measured, discussed in the report, and ruled out.

☒ The report includes discussion of a *clear pattern* of impairment—not just outlying individual test scores.

☒ The report includes individualized, specific recommendations that are supported by objective evidence.

**Additional items related to ADHD:**

☐ The evaluation included objective measures of attention (not only checklists).

☐ The evaluation included a comprehensive achievement battery (e.g., timed and untimed tests in each academic area— reading, written language, and math).

☐ The diagnosis of ADHD follow current DSM-IV criteria, including age-of-onset guidelines.

**Additional items related to learning disabilities:**

☒ The evaluation includes a comprehensive assessment of processing abilities, beyond what could be gleaned from the IQ battery.



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☒ The report includes a detailed explanation of the connection between underlying processing deficits and areas of significant underachievement.

**Additional items related to psychiatric disabilities:**

☐ The evaluation included objective measures of personality and/or emotional functioning.

☐ The evaluation was administered no more than six months prior to the anticipated MCAT date (see the Documentation Requirements for exceptions to this rule).

**Additional items related to physical disabilities or chronic health conditions:**

☐ The physician's report includes detailed information regarding the history of the condition, the examinee's current condition, current treatments, the perceived potential impact on the MCAT, and specific recommendations.

For a more detailed explanation of the guidelines and procedures for accommodations requests, please see visit our website at: [www.aamc.org/students/mcat/accommodations/docrequirements.htm](http://www.aamc.org/students/mcat/accommodations/docrequirements.htm)

Technical questions from evaluators about the documentations requirements should be addressed to [docreview@aamc.org](mailto:docreview@aamc.org). General questions about the accommodations process should be addressed to [accommodations@aamc.org](mailto:accommodations@aamc.org).

Name of evaluator: Alexander H. Smith

Signed: Alexander H. Smith Ed.D.

Date: 3/31/10

# EXHIBIT E





2450 N Street, N.W., Washington, D.C. 20037-1127  
T 202 828 0690 F 202 828 4799  
www.aamc.org/mcat

May 11, 2010

Mr. Brendan Berger  
27 Creekwood Square  
Cincinnati, OH 45246

**STATUS: RECONSIDERATION DENIAL**

Dear Mr. Berger;

Thank you for applying to the Medical College Admissions Test. Your application for accommodations on the MCAT and supporting documentation have been carefully re-reviewed. You previously requested accommodations on the MCAT. In a letter from us to you dated October 28, 2009, we indicated that we could not approve your request. Our letter cited a number of specific reasons for this decision, including significant evidence that you are not substantially limited in learning compared to most people in the general population (the ADA definition of disability), such as your recent non-accommodated MCAT score that was solidly average even compared to the elite group who take the MCAT.

Since then you have asked us to reconsider your request. In support of your recent request, you have submitted additional test results from Dr. Smith. As part of our comprehensive review process, we have sent your entire file to one of our external experts for review. This external expert is highly regarded in their field, and we are confident that your case has received a thorough, fair review. In sum, the external reviewer recommended denying all accommodations. The external expert cited your long history of excellent academic performance even prior to your diagnosis in 11<sup>th</sup> grade, as well as your recent non-accommodated MCAT scores, as strong evidence that you are not substantially limited in learning as compared to most people. The external reviewer noted that your 2010 test results with Dr. Smith are extraordinarily incongruous with all other previous test data and academic history.

As we noted in our previous letter to you, please keep the following points in mind:

1) It is important to remember that to be considered a person with a disability under the ADA/ADAAA, the "benchmark" is not your own intellectual ability, or your "potential", but *the average person in the general population*. Please see the MCAT website ([www.aamc.org/students/mcat/accommodations/start.htm](http://www.aamc.org/students/mcat/accommodations/start.htm)) for a comprehensive explanation.

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Association of American Medical Colleges

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CMB-0202

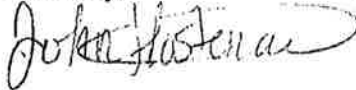
2) It is important for you to remember the purpose of accommodations. The Americans with Disabilities Act and its subsequent amendments were not designed to allow high-functioning students to "maximize their potential", but to permit access to programs and services that would otherwise be unavailable to individuals with genuinely handicapping conditions.

If you would like to provide additional supporting documentation, you may ask for a reconsideration of this decision, although the deadlines will remain in effect (see the Frequently Asked Questions page at the website noted above for additional information about timeframes and deadlines). Along with this letter you will find a Request for Reconsideration Form, which is also available for download from our website. This form explains the steps you should take if you would like us to reconsider our accommodations decision.

If you have already registered for the MCAT, you will continue to be registered for a standard administration. If you would like to withdraw your registration, you can find information on the MCAT website about requesting a partial refund of your registration fee.

The Association of American Medical Colleges is committed to providing appropriate accommodations to individuals with disabilities as defined by relevant federal law. The Association is also mindful of the need to protect the validity of the MCAT. Be assured that your application materials have been treated with due respect, fairness, and confidentiality.

Sincerely,

A handwritten signature in dark ink, appearing to read "John A. Hosterman". To the right of the signature is a small, handwritten circled mark that looks like "AIR".

John A. Hosterman, Ph.D.  
Director of Accommodations Review, MCAT  
Association of American Medical Colleges  
[Accommodations@aamc.org](mailto:Accommodations@aamc.org)


# EXHIBIT F

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# DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS

FOURTH EDITION

## DSM-IV<sup>TM</sup>



Includes  
ICD-9-CM  
Codes  
Effective  
1-Oct-96



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PUBLISHED BY THE  
AMERICAN PSYCHIATRIC ASSOCIATION  
WASHINGTON, DC



## 32 Multiaxial Assessment

## Global Assessment of Functioning (GAF) Scale

Consider psychological, social, and occupational functioning on a hypothetical continuum of mental health-illness. Do not include impairment in functioning due to physical (or environmental) limitations.

**Code** (Note: Use intermediate codes when appropriate. e.g., 45, 68, 72.)

- 100 Superior functioning in a wide range of activities, life's problems never seem to get out of hand, is sought out by others because of his or her many positive qualities. No symptoms.
- 91 Absent or minimal symptoms (e.g., mild anxiety before an exam), good functioning in all areas, interested and involved in a wide range of activities, socially effective, generally satisfied with life, no more than everyday problems or concerns (e.g., an occasional argument with family members).
- 80 If symptoms are present, they are transient and expectable reactions to psychosocial stressors (e.g., difficulty concentrating after family argument); no more than slight impairment in social, occupational, or school functioning (e.g., temporarily falling behind in schoolwork).
- 70 Some mild symptoms (e.g., depressed mood and mild insomnia) OR some difficulty in social, occupational, or school functioning (e.g., occasional truancy, or theft within the household), but generally functioning pretty well, has some meaningful interpersonal relationships.
- 60 Moderate symptoms (e.g., flat affect and circumstantial speech, occasional panic attacks) OR moderate difficulty in social, occupational, or school functioning (e.g., few friends, conflicts with peers or co-workers).
- 50 Serious symptoms (e.g., suicidal ideation, severe obsessional rituals, frequent shoplifting) OR any serious impairment in social, occupational, or school functioning (e.g., no friends, unable to keep a job).
- 40 Some impairment in reality testing or communication (e.g., speech is at times illogical, obscure, or irrelevant) OR major impairment in several areas, such as work or school, family relations, judgment, thinking, or mood (e.g., depressed man avoids friends, neglects family, and is unable to work; child frequently beats up younger children, is defiant at home, and is failing at school).
- 30 Behavior is considerably influenced by delusions or hallucinations OR serious impairment in communication or judgment (e.g., sometimes incoherent, acts grossly inappropriately, suicidal preoccupation) OR inability to function in almost all areas (e.g., stays in bed all day; no job, home, or friends).
- 20 Some danger of hurting self or others (e.g., suicide attempts without clear expectation of death; frequently violent; manic excitement) OR occasionally fails to maintain minimal personal hygiene (e.g., soiled clothes) OR gross impairment in communication (e.g., largely incoherent or mute).
- 10 Persistent danger of severely hurting self or others (e.g., recurrent violence) OR persistent inability to maintain minimal personal hygiene OR serious suicidal act with clear expectation of death.
- 0 Inadequate information.

The rating of overall psychological functioning on a scale of 0-100 was operationalized by Luborsky in the Health-Sickness Rating Scale (Luborsky L: "Clinicians' Judgments of Mental Health," *Archives of General Psychiatry* 7:407-417, 1962). Spitzer and colleagues developed a revision of the Health-Sickness Rating Scale called the Global Assessment Scale (GAS) (Endicott J, Spitzer RL, Fleiss JL, Cohen J: "The Global Assessment Scale: A Procedure for Measuring Overall Severity of Psychiatric Disturbance," *Archives of General Psychiatry* 33:766-771, 1976). A modified version of the GAS was included in DSM-III-R as the Global Assessment of Functioning (GAF) Scale.